

Decision 05-09-020 September 8, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California-American Water Company for an order authorizing it to change its rates for water service in its Sacramento District to increase revenues by \$3,160.8 or 14.35% in the year 2005, by \$2,158.6 or 8.48% in the year 2006 and by \$1,202.2 or 4.35% in the year 2007.

Application 04-04-040
(Filed April 30, 2004)

In the Matter of the Application of California-American Water Company (U2100) for an order authorizing it to increase its rates for water service in its Larkfield District to increase revenues by \$494.1 or 26.16% in the year 2005, by \$183.4 or 7.63% in the year 2006 and by \$61.9 or 2.39% in the year 2007.

Application 04-04-041
(Filed April 30, 2004)

In the Matter of the Application of California-American Water Company for Authority Pursuant to PU Code Section 454 to Restructure and Consolidate its Rates for its Sacramento and Larkfield Districts.

Application 04-08-013
(Filed August 11, 2004)

See Appendix B for List of Appearances

O P I N I O N

A. Summary

This decision adopts a modified settlement for California-American Water Company's (Cal-Am) Sacramento and Larkfield districts general rate cases (GRCs) that covers all issues except adoption of a low-income customer assistance program. For the Sacramento district, the settlement provides for revenue requirement increases of 9.99% in 2005, 3.60% in 2006, and 2.98% in 2007, with the increases spread over all rate schedules. For the Larkfield district, the revenue requirement will be recalculated to reflect the removal of \$275,000 from rate base in the modified settlement. The revenue requirement will be lower than the original settlement, which proposed an increase of 7.88% in 2005, 2.36% in 2006, and 1.56% in 2007, with increases spread over all rate schedules.¹

For low-income customer assistance programs, we find that the record here does not contain sufficient information to adopt a low-income assistance program for the Sacramento and Larkfield districts. We agree with Cal-Am and ORA that this is a technically complex issue with broad policy implications, and it should be decided in a generic proceeding.

If the Commission has not instituted a generic rulemaking on low-income assistance programs for residential water users within two months, Cal-Am is directed to file an application for the Sacramento and Larkfield districts that is similar to the program adopted for San Gabriel Water Company in Decision (D.) 05-05-015.

¹ The September 7, 2005 modified settlement document is attached at Appendix A. Revised general rate case tables for the Larkfield District shall be filed within 5 days of the effective date of this decision.

In this decision we also address Cal-Am's request for rate consolidation of its Sacramento and Larkfield districts. We find Cal-Am has not demonstrated that its proposal is in the public interest. Customers at both the Sacramento and Larkfield public participation hearings (PPHs) spoke against the proposal and all active interested parties in the proceeding, including the Larkfield citizens group LWWDAC, oppose Cal-Am's request. By its own acknowledgement, the proposal does not meet the Guidelines that we have used to assess rate consolidations since 1992.² Further, Cal-Am's rate consolidation proposal is not consistent with the consolidation approved for another water utility in D.00-06-075.

In D.05-02-007, the Commission granted interim rate relief to Cal-Am for its Sacramento and Larkfield district customers effective February 10, 2005. This interim increase was based on the rate of inflation as compared to existing rates for these districts, and should be adjusted upward, back to the effective date, with the final rates adopted here. The methodology Cal-Am must use in calculating the surcharge is based on the actual loss or gain in each district's revenue, which is determined by applying the rate differential to the actual quantities of water sales and the actual number of customers. The surcharge will be fully recovered over the rest of 2005.

B. Procedural Background

Each of these concurrently filed GRC application requests authority to increase rates for water service in the years 2005, 2006, and 2007.

² The Guidelines are attached to an August 20, 1992 letter entitled "Combining Water Utility Districts". (See Appendix H of Exhibit 19.)

At the first prehearing conference (PHC) on July 13, 2004, Cal-Am stated that in response to Ordering Paragraph 12 of D.04-05-023, issued after its April filings, it would likely file an application to consolidate for ratemaking purposes its Sacramento and Larkfield districts. Further, Cal-Am stated it was still developing this proposal for rate consolidation and therefore could not state how the proposed would affect the two pending GRC applications. In response, the assigned Administrative Law Judge (ALJ) scheduled a second PHC for August 16, 2004, after the deadline by which Cal-Am would decide whether to file an application to consolidate its Sacramento and Larkfield districts.³ On August 11, 2004, Cal-Am filed Application (A.) 04-08-013, a rate consolidation application for its Larkfield and Sacramento districts.

At the August 16 PHC, Cal-Am and ORA both agreed it made good sense to consolidate the three cases for purposes of evidentiary hearings, and the ALJ so ruled. A preliminary schedule was set and PPH's scheduled for Larkfield and Sacramento. A discussion also begun on whether and how the new rate case plan (RCP) adopted in D.04-06-018 would apply here. A third PHC was set for September 23, 2004, after the protest period had ended for A.04-08-013.⁴

At the third PHC, the assigned ALJ granted County of Santa Cruz's request to intervene in the proceeding but denied its motion to consolidate the three cases here with Cal-Am's Felton-Monterey rate consolidation application, ruling that the County of Santa Cruz's interest in consolidating Felton with Sacramento rather than Monterey could be explored in both dockets without the

³ By letter dated July 30, 2004 to the Commission's Executive Director, Cal-Am requested a one-week extension of the August 4, 2004 deadline to file its consolidation application. This request was granted.

⁴ On September 13, 2004, the County of Santa Cruz timely protested A.04-08-013.

need to further delay the schedule here.⁵ Additional parties granted intervention were the LWWDAC and the Mark West Area Chamber of Commerce.

In discussing the applicability of the new RCP, both Cal-Am and ORA stated that since the Sacramento and Larkfield GRCs were filed in April, the new calculation methodologies should not apply here. In the matter of scheduling, the overall schedule agreed to by all parties follows Cal-Am's August filing and is generally consistent with the new RCP.

Responding to questions from the ALJ, Cal-Am stated that the table showing the benefits of rate consolidation for the Larkfield district (Table E of A.04-08-013) was incorrect and a revised table would be filed on September 24, 2004.

PPHs were held in Larkfield on September 29, 2004, and in Sacramento on September 30, 2004.

ORA and interested parties served testimony on November 10, 2004, and interested parties served rebuttal on November 17, 2004. On December 16, 2004, Cal-Am filed a settlement agreement between Cal-Am, ORA, and LWWDAC. LWWDAC later expressed concerns with the disposition of the Well No. 6 issue, and Cal-Am witnesses appeared on this issue at the evidentiary hearings held on January 24 and January 25, 2005. On the last day of hearings, the parties reached a revised settlement agreement and this was filed by joint motion on February 25, 2005. No party filed comments on the revised settlement.

⁵ Cal-Am's rate consolidation application for the Felton and Monterey districts, A.04-08-012, is assigned to Commissioner Kennedy and ALJ McVicar. At his September 20 PHC, ALJ McVicar also denied the County of Santa Cruz's motion to consolidate A.04-08-012 with A.04-08-013.

Parties filed briefs on the remaining contested issues on February 25, 2005 and reply briefs on March 10, 2005.

C. Terms of Settlement

1. Overview

The parties to the settlement are Cal-Am, ORA, and LWWDAC.⁶ The settlement is comprehensive, covering all contested GRC issues in A.04-04-040 and A.04-04-041 for the two districts except the issue of rate assistance for low income customers; the settlement, including tariffs and GRC tables, Appendices 1-17 to the settlement, is attached as Appendix A to this decision. The settlement does not address the rate consolidation issues in A.04-08-013.

The settlement sets a separate revenue requirement and customer rates for the calendar years 2005, 2006, and 2007 for Sacramento and Larkfield districts based on agreements on the cost of capital, operating expenses, and plant in service. The parties to the settlement state that it represents a compromise and should be treated as an integrated agreement, so that if the Commission rejects any portion of this settlement, each party has the right to withdraw. Further, parties state that the settlement should not be construed as a precedent or statement of policy on any issue.

2. Issues Specific to the Sacramento District

Cost of capital, acquisition premium allowance, and attrition allowance are handled in the same manner for Sacramento and Larkfield. For Sacramento, the parties had no differences on water consumption, operating revenues, depreciation, and rate design other than a low income assistance program. For

⁶ The County of Santa Cruz is not a signatory to the settlement but did not challenge any provisions of the settlement.

expenses and rate base not included in the settled plant issues, Cal-Am agrees with all of ORA's recommendations. The parties reached agreement on the following disputed plant in service issues:

	Amount Requested By Cal-Am (000s)	Settlement (000s)
<u>2005</u>		
Recurring Projects	\$3,136.3	\$2,687.1
Well Rehabilitations	390.1	253.0
Wilbur Well	49.9	0.0
Pearl Heights Interconnection	149.6	0.0
Ethan Way Interconnection	947.7	0.0
Rosemont Tank	124.7	0.0
Water Trmt Facility - Arsenic	3,750.0	0.0
Water Trmt Facility – Parkway	478.8	478.8
Rehab of Wells – New Suburban	498.8	249.4
Rehab. of Wells – Blanket Project	349.3	349.3
Rehab. Of Wells – Two new	543.7	271.8
Storage Tanks – Roseville	467.9	467.9
Storage Tanks – Riolo	797.6	797.6
Pumps – Roseville Rd. Booster Sta.	499.0	499.0
Trans & Distrib. – Shenandoah	1,396.6	1,396.6
<u>2006</u>		
Recurring Projects	\$3,134.5	\$2,685.5
Well Rehabilitations	299.0	253.0
Ethan Way Interconnection	498.5	0.0
Rosemont Tank	797.6	0.0
Water Trmt Facility – Arsenic	450.0	4,200.0 ⁷

⁷ The settlement removes Cal-Am's request for \$3,750,000 in 2005. The parties agreed that the two projects in this category should only be recovered in rates upon their completion and placement into service, with the filing of an advice letter within the overall total construction dollar cap of \$4,200.00. Cal-Am has applied for Proposition 50 funding for these projects. Any grant funds actually received will be recorded as contribution and will reduce dollar for dollar the amount that Cal-Am can request in the advice letter.

Water Trmt Facility – Parkway	1,435.5	1,435.5
Rehab. of Wells – Blanket Project	324.3	324.3
Trans & Distrib. – Shenandoah	2,392.8	2,392.8

3. Issues Specific to the Larkfield District

For Larkfield, there were no disputed issues on depreciation, and there is a uniform treatment with the Sacramento district on cost of capital, attrition, and acquisition premium allowance. Cal-Am agrees with ORA's position on water consumption and operating revenues; all parties made one modification to the estimated residential consumption estimate to reflect the residential fire service provision included at the request of LWWDAC. Cal-Am agrees with ORA's position on expense estimates and all rate base items not included in the settled plant issues.

The major issue in the settlement is the regulatory treatment of Well No. 6. Following extended discussions, and an earlier settlement agreement that LWWDAC later ceased to support, the parties to the settlement reached a detailed agreement, reflected in Section 15.3 of the settlement, that allows preliminary work and cost recovery to begin on Well No. 6, subject to continued study and review.⁸ The agreement also commences a water conservation program funded at the rate of \$15,000 per year.

At the request of LWWDAC, the settlement also provides a lower monthly service charge for residential customers who have a fire sprinkler system connected to their domestic water system and who had to up-size their meter in order to do so. (*See* Section 20.1).

⁸ This provision was modified by the parties, as discussed in Section D.1.

In addition, the parties reached agreement on the following disputed plant in service issues:

	Amount Requested By Cal-Am (000s)	Settlement (000s)
<u>2004</u> ⁹		
Operations Bldg.	\$ 12.0	\$ 0.0
Small Main Program	74.9	0.0
North Wikiup Tank	64.9	64.7
<u>2005</u>		
Construct Well #7	249.8	0.0
Small Main Program	74.9	0.0
Distrib. Monitoring Equipment	249.8	0.0
Recurring Projects	433.0	400.0
North Wikiup Tank	434.6	234.6
Improvement in Water Treatment	349.7	149.7
<u>2006</u>		
Operations Bldg.	129.9	0.0
Construct Well #7	749.3	0.0
Small Main Program	74.9	0.0
Distrib. Monitoring Equipment	249.8	0.0
Recurring Projects	433.0	400.0
Improvement in Water Treatment	99.0	0.0
<u>2007</u>		
Recurring Projects	433.0	400.0

D. Discussion of the Settlement

1. Standard of Review for Settlements

We review this settlement pursuant to Rule 51.1(e), which provides that, prior to approval, the Commission must find a settlement “reasonable in light of

⁹ The settlement of 2004 rate base issues is for the purpose of calculating 2005 revenue requirements.

the whole record, consistent with the law, and in the public interest.” The settlement is uncontested.

In comments on the proposed decision, LWWDAC raised concerns that Cal-Am was proceeding with the development of the Larkfield Well No. 6 project in a manner that violated Section 15.3 of the proposed settlement. The parties subsequently modified Section 15.3 to remove Well No. 6 from consideration in this proceeding. The result of this modification is to (1) remove \$275,000 in preliminary development costs from rate base and (2) not establish a memorandum account for the project. In the modified settlement, Cal-Am commits to continue its regularly scheduled meetings with Larkfield community representatives regarding water issues. Revised rate schedules for the Larkfield District should be filed by the settlement parties within 5 days of this decision.

2. Reasonable in Light of the Whole Record

We find the modified settlement is reasonable in light of the whole record. All parties participated in discovery, and Cal-Am and ORA served direct and rebuttal testimony prior to entering settlement discussions. The first proposed settlement was also examined through cross-examination at the hearings, and then modified by the parties after further settlement discussions. Each section of the settlement references the evidence submitted on the issue. The settlement clearly reflects compromise achieved among diverse interests vigorously represented at the bargaining table.

3. Consistent with the Law

Consistent with Commission case law, the modified settlement specifically states that the settlement should not be construed as a precedent or statement of

policy of any kind. No term of the settlement contravenes statutory provisions or prior Commission decisions.¹⁰

4. In the Public Interest

We find that the modified settlement is in the public interest as it represents a reasonable compromise of the settlement parties' respective positions on individual issues and taken as a whole is fair and reasonable. The parties have avoided considerable litigation costs and uncertainty by entering a settlement. The settlement is detailed regarding all of its provisions, so that we may carry out our future regulatory obligations with respect to the utility.

5. Conclusion

Based on the discussion above, we find the modified settlement to be reasonable in light of the whole record, consistent with the law, and in the public interest. Therefore, we should adopt the settlement.

E. Low-Income Customer Assistance

Both Cal-Am and ORA testified that rate assistance for low-income customers is a technically complex issue with broad policy implications, and it should be decided in a generic proceeding that the Commission is expected to open soon. Cal-Am withdrew its low-income proposal from this proceeding, ORA did not withdraw its specific proposal but indicated it should remain in the

¹⁰ We note that Cal-Am did not renew its request in this proceeding to recover in rates an amount attributed to the contamination litigation memorandum account of Cal-Am's predecessor for these districts, namely, Citizens Utilities. In D.04-05-023, the Commission declined to adopt Cal-Am's special rate request #2, to recover \$559,462 in that account. In our denial, we required Cal-Am to make a specific showing if it decided to renew its request in its next GRC that the \$559,462 was part of the \$93.957 million net book value of Citizens' California assets and not part of the \$64.553 million acquisition premium already accounted for in rates.

record as its second choice. Further, ORA stated that it had not prepared an estimate of program costs due to the fact that the establishment of low-income water programs is relatively new ground.

After the close of the record here, the Commission in D.05-05-015 adopted a new low-income program for customers of San Gabriel Water Company (San Gabriel). This program is different from those initially sponsored by Cal-Am and ORA here, particularly in that the San Gabriel program does not include indirect residential customers who use water provided by San Gabriel through a master meter. These indirect residential customers are generally residents of apartments and other multi-family buildings. In D.05-05-015, the Commission expressed concern with excluding indirect customers but stated that the record in the proceeding did not provide sufficient facts to assess whether low-income residents of multi-family dwellings would be subsidizing other single-family low-income customers under the adopted program.

We recognize the complexity and importance of designing a low-income assistance program for residential water users of investor-owned utilities. We find that further information is needed before considering a program for Cal-Am's Sacramento and Larkfield districts, but that timeliness in addressing the issue is important. Therefore, if the Commission has not instituted a generic rulemaking on low-income assistance programs for residential water users within two months, Cal-Am is directed to file an application for the Sacramento and Larkfield districts that is similar to the program adopted for San Gabriel Water Company in D.05-05-015. In its application, Cal-Am must provide information on the number of low-income indirect customers in each district, and a comprehensive analysis of any subsidy these indirect customers are providing to Cal-Am's direct customers.

F. Consolidation of Rates

1. Cal-Am's Proposal and Justification

Cal-Am filed its rate consolidation proposal in response to the Commission's directive in D.04-05-023. In that decision, the Commission considered an earlier Cal-Am rate consolidation proposal and found the record was insufficient to make a finding that the advantages of district consolidation outweighed the disadvantages; the Commission further found that the public interest would be served by Cal-Am filing a more complete proposal within 90 days.¹¹ On August 11, 2004, Cal-Am filed its new proposal in A.04-08-013 and at the August 16, 2004 PHC in A.04-04-040/A.04-04-041, the assigned ALJ consolidated A.04-08-013 with Cal-Am's GRC applications.¹²

Cal-Am's new proposal would:

- combine the revenue requirement of its Sacramento district for ratemaking purposes with the revenue requirement of its Larkfield district;
- develop consolidated rates for metered service based on the combined revenue requirement of the districts;¹³
- implement the rate consolidation over a six-year period to minimize the effects of rate consolidation; and

¹¹ D.04-05-023, mailed May 11, 2004, *mimeo.*, at 42 and 73.

¹² On August 11, 2004, Cal-Am also filed, in response to the directive in D.04-05-023, a new rate consolidation proposal for its Felton and Monterey districts. This application, A.04-08-012, is assigned to Commissioner Kennedy and ALJ McVicar.

¹³ Cal-Am's proposal would consolidate metered rates only, as the Sacramento district has both metered and unmetered rates whereas the Larkfield district has only metered rates.

- exclude from the combined revenue requirement the cost of purchased water, purchased power, and chemical costs.

In support, Cal-Am testifies that the proposal would provide significant rate relief to customers in the Larkfield district, while having a minimal impact on customers in the Sacramento district. In addition, this rate consolidation proposal is part of a larger, long-term Cal-Am goal of achieving rate equalization for all of its customers through statewide rate consolidation of all Cal-Am districts. Cal-Am testifies that the cost of treating and supplying water has increased dramatically in recent years due to stricter health and environmental regulations, and small operating entities must have rate consolidation to remain economically viable. Further, water utilities across California face the need to replace and/or upgrade aging infrastructure, and customers in smaller districts suffer from these fixed costs being spread over a smaller customer base.

Cal-Am acknowledges that its proposal does not meet the “Guidelines for Combining Water Utility Districts for Ratemaking and Public Utilities Commission Reporting Purposes” developed by representatives of Class A water utilities and Commission staff in 1992. While these guidelines have been used to assess all water rate consolidation proposals since 1992, Cal-Am argues that the guidelines are not Commission precedent and should not be strictly applied.

The Commission precedent that Cal-Am cites in support of its proposal is D.00-06-075. There, we granted rate consolidation for eight Southern California Water Company (SCWC) districts that were not interconnected, had varied water sources, and ranged from 5 to 163 miles from each other. Nonetheless, the Commission found that given the need for rate relief in some SCWC districts and the demonstrated minimal impact of consolidated rates in the other districts, the public interest would be served by consolidated rates. Cal-Am also cites to several other cases where we approved consolidated rates for water companies,

but Cal-Am acknowledges that these cases cannot be used as precedent because in those cases the consolidation was presented to us as part of a settlement.

2. Discussion

Cal-Am has not demonstrated that its proposal for rate consolidation of the Sacramento and Larkfield districts is in the public interest. Customers at both the Sacramento and Larkfield PPHs spoke against the proposal, and all active interested parties in the proceeding, including the Larkfield citizens group LWWDAC, oppose Cal-Am's request. Further, Cal-Am's rate consolidation proposal is not comparable with the SCWC consolidation approved in D.00-06-075. By its own acknowledgement, the proposal does not meet the guidelines that we have used to assess rate consolidations since 1992. Even apart from the guidelines, the record here tilts heavily against Cal-Am's proposal.

Cal-Am's reliance on the SCWC consolidation is misplaced. In D.00-06-075, the Commission approved single tariff pricing, to include water supply and treatment, based on a finding that there was a compelling need for rate relief for some of the smaller, more impoverished districts, and that providing relief constituted substantial benefits in the public interest. The Commission said that a consolidation proposal not consistent with the guidelines could be considered but would require a full record to be developed in support of the proposal. ORA is correct in stating that if an applicant does not meet the guidelines, the burden of proof is on the applicant to prove the advantages outweigh the disadvantages, and to make this showing based on clear and convincing evidence.

Cal-Am has not met its burden of proof. The primary justification Cal-Am provides for its proposal is that customers in the Larkfield district pay higher rates than customers in the Sacramento district for the same distribution service.

It does not make a showing that Larkfield is an impoverished district or that customers cannot afford to pay stand-alone rates.

In the evidentiary hearings, Cal-Am testified that the highest costs for a water district are purchased water, purchased power and chemical costs. (Tr. at 183.) These are the costs that Cal-Am does not propose to consolidate for Sacramento and Larkfield.¹⁴ To allow the Commission to assess the impacts of rate consolidation, Cal-Am was required in D.04-05-023 to prepare a 15 year rate forecast. However, LWWDAC, on cross-examination, elicited from Cal-Am that in its 15 year forecast it did not forecast any cost increases for purchased water, purchased power, and chemicals because these costs would be rate offsets; further, Cal-Am made no commitments on future rates based on its 15 year forecast. (Tr. at 187.)

The County of Santa Cruz references Cal-Am's other rate consolidation application, A.04-08-012, and draws from that record to show that the Commission should not make a major policy change here by adopting Cal-Am's goal of a statewide infrastructure rate based on the limited record in this proceeding. We agree.

We note, finally, that Cal-Am's proposal does not even remotely comport with the rate consolidation guidelines. It fails the proximity standard as the districts are 120 miles apart. It fails the rate comparability standard as the difference in rates between the two districts is 93%, based on revenue per

¹⁴ Cal-Am's proposal here differs from the proposal it made to consolidate rates for the Sacramento and Larkfield districts in its last GRC. In that proceeding, Cal-Am proposed to establish a quantity rate differential in Larkfield to compensate for its higher per-unit purchased water cost. (*Id.* at 41.)

customer. It fails the water supply standard as Larkfield purchases approximately 33% of its supply whereas Sacramento purchases only 3%.

In short, Cal-Am's consolidation proposal is poorly supported, generally opposed, and inconsistent with both our guidelines and our rationale underpinning approval of consolidation in the SCWC case.

**G. True-up of Interim Rates Adopted in
D.05-02-007**

In D.05-02-007, the Commission granted interim rate relief to Cal-Am for its Sacramento and Larkfield district customers effective February 10, 2005. This interim increase was based on the rate of inflation as compared to existing rates for the districts, and should be adjusted upward, back to the effective date, with the final rates adopted here.

Pursuant to Ordering Paragraph 3 of D.05-02-007, on March 11, 2005, Cal-Am proposed a methodology true-up the interim rates. Cal-Am proposes to calculate the refund or surcharge amount by applying the rate differential to the final decision's adopted water sales and number of customers. After reviewing this proposal, we find the use of actual rather than adopted sales and number of customers is preferable. Therefore, the methodology Cal-Am should use in calculating the surcharge should be based on the actual loss or gain in each district's revenue, which is determined by applying the rate differential to the actual quantities of water sales and the actual number of customers. The surcharge will be fully recovered over the remaining period of 2005.

H. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Christine M. Walwyn is the assigned Administrative Law Judge in this proceeding.

I. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with § 311(d) of the Pub. Util. Code and Rule 77.1 of the Rules of Practice and Procedure.

Opening comments were timely filed by Cal-Am, ORA, and LWWDAC on August 15, 2005 and reply comments were timely filed by Cal-Am on August 22, 2005.¹⁵ In its opening comments, Cal-Am addresses the proposed decision's findings on low-income customer assistance programs and requests that the Commission pursue a statewide low-income assistance program through a generic proceeding or, in the alternative, permit Cal-Am to propose its own low-income assistance program tailored to Sacramento and Larkfield's specific needs and characteristics, rather than trying to adapt the San Gabriel model for use in these districts. We decline to make these modifications. We do, however, reduce the timeframe for considering the issue of low-income assistance programs from six months to two months. Therefore, if the Commission has not instituted a generic rulemaking within two months, Cal-Am is directed to file an application. While this application must include a program similar to San Gabriel's, Cal-Am may also include an alternative program proposal for the Commission's consideration.

In its comments, LWWDAC raised concerns that Cal-Am was proceeding with the development of the Larkfield Well No. 6 in a manner that violated Section 15.3 of the proposed settlement. The parties subsequently modified their settlement to remove Well No. 6 from consideration in this proceeding. The

¹⁵ A request by LWWDAC to file rebuttal to Cal-Am's reply comments was denied by the ALJ; the subsequent filing was rejected by the Docket Office on August 25, 2005.

modified settlement was filed on September 7, 2005 and is attached as Appendix A.

Findings of Fact

1. On February 25, 2005, California-American Water Company, on behalf of itself, the Office of Ratepayer Advocates, and the Larkfield/Wikiup Water District Advisory Committee, filed a Joint Motion for Adoption of Revised Settlement Agreement. On September 7, 2005, the parties filed a modified settlement, attached as Appendix A.

2. The Larkfield general rate case tables, attached at Appendix A, do not reflect the terms of the modified settlement.

3. The modified settlement resolves all general rate case issues except a low-income assistance customer program for the Sacramento and Larkfield districts.

4. The testimony and hearing record provide a comprehensive record for consideration of the settlement.

5. The settlement parties represent the interests of the water utility, ratepayers, and the Larkfield community.

6. Rate assistance for low-income customers is a technically complex issue with broad policy implications, and it should be decided in a generic proceeding.

7. The record here does not contain sufficient information to adopt a low-income assistance program for the Sacramento and Larkfield districts.

8. After the close of the record in this proceeding, the Commission adopted a low-income program for customers of San Gabriel Water Company in Decision D.05-05-015.

9. Timeliness in addressing the issue of low-income customer assistance is important.

10. If the Commission has not instituted a generic rulemaking on low-income assistance programs for residential water users within two months, Cal-Am should file an application for the Sacramento and Larkfield districts that is similar to the program adopted for San Gabriel Water Company in D.05-05-015. In its application, Cal-Am should provide specific information on the number of low-income indirect customers in each district, and a comprehensive analysis of any subsidy these indirect customers are providing to Cal-Am's direct customers.

11. The 1992 "Guidelines for Combining Water Utility Districts for Ratemaking and Public Utilities Commission Reporting Purposes" were intended to establish prima facie reasonableness of a proposed consolidation.

12. Cal-Am's rate consolidation application meets only one of the Guidelines criteria, the operations standard. It fails the proximity standard as the districts are 120 miles apart. It fails the rate comparability standard as the difference in rates between the two districts is 93%, based on revenue per customer. It fails the water supply standard as Larkfield purchases approximately 33% of its supply whereas Sacramento purchases only 3%.

13. Cal-Am did not make a showing that Larkfield is an impoverished district or that Larkfield customers cannot afford to pay stand-alone rates.

14. Cal-Am should true-up the interim rate increase granted in D.05-02-007 with the final rates adopted here by calculating the surcharge based on the actual loss or gain in each district's revenue, determined by applying the rate differential to the actual quantities of water sales and the actual number of customers. The surcharge should be fully recovered over the remaining period of 2005.

Conclusions of Law

1. The modified proposed settlement is reasonable in light of the whole record, consistent with the law, and in the public interest.
2. Pursuant to Rule 51.1(e) of the Commission's Rules of Practice and Procedure, we should adopt the modified settlement and its accompanying tariffs.
3. The settlement parties should file modified Larkfield general rate case tables within 5 days of the effective date of this decision.
4. Cal-Am's proposal to consolidate rates for the Sacramento and Larkfield districts does not meet the guidelines we have relied on generally in ruling on rate consolidation proposals.
5. Cal-Am's proposal for rate consolidation does not meet the standards used in D.00-06-075 to grant rate consolidation for Southern California Water Company.
6. Cal-Am has not demonstrated that its proposal for rate consolidation is in the public interest.
7. Cal-Am's rate consolidation application, A.04-08-013, should be denied.
8. This decision should be effective immediately.
9. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. The modified Settlement Agreement, with its attached tariffs and Sacramento District general rate case tables, is approved and adopted.
2. The settlement parties shall file modified Larkfield District general rate case tables to conform to the modified settlement within 5 days of the effective date of this decision.

3. If the Commission has not instituted a generic rulemaking on low-income assistance programs for residential water users within two months, California-American Water Company (Cal-Am) shall file an application for the Sacramento and Larkfield districts that is similar to the program adopted for San Gabriel Water Company in Decision 05-05-015. In its application, Cal-Am shall provide specific information on the number of low-income indirect customers in each district, and a comprehensive analysis of any subsidy these indirect customers are providing to Cal-Am's direct customers.

4. Cal-Am's request to restructure and consolidate its rates for its Sacramento and Larkfield districts is denied.

5. Cal-Am shall file within 15 days of the effective date of this decision a compliance filing containing the tariffs necessary to implement the surcharge methodology approved here to true-up the interim rates adopted in D.05-02-007.

6. This proceeding is closed.

This order is effective today.

Dated September 8, 2005, at San Francisco, California.

GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners

I will file a dissent.

/s/ MICHAEL R. PEEVEY
President

I will file a concurrence.

/s/ SUSAN P. KENNEDY
Commissioner

A.04-04-040 – California American Water Company
D.05-09-020

President Michael R. Peevey, dissenting:

I'll be voting "no" on today's decision for two reasons; one, the proposed decision (PD) denies consolidation of the much larger Sacramento District with the Larkfield District,
and two, the proposed decision defers adoption of a low-income ratepayer assistance program.

The PD denies consolidation on the grounds of vigorous opposition from Larkfield residents, and because the proposal does not meet dated, regulatory guidelines. Instead, the PD accepts a settlement agreement filed between ORA, Cal-Am and the Larkfield Water Advisory Committee.

The consolidation application filed by Cal-Am lowers water rates of Larkfield residents and—more importantly—expands the customer base to spread the inevitable rising costs of water treatment and delivery. Sacramento District serves 57,000 customers and Larkfield serves just 2,400 customers. Larkfield's current water rates are more than double those of Sacramento. Why Larkfield residents would oppose lower rates—now and in the future—is beyond me. The old adage "the customer is always right" does not apply in this case. The customer, and sometimes this Commission, can be wrong. I echo this sentiment for Consent Agenda Item #5—the Cal-Am Monterey/Felton consolidation proceeding. Again, I can't understand the vigorous opposition to lower water rates from Felton customers. But we bought into it.

At the same time we deny consolidation and maintain higher rates for these small operating districts, we continue to deny the implementation of low-income ratepayer assistance programs—the ultimate double whammy for low-income residents. While the order requires Cal-Am to file for low income rates within two months time, we need to find a way to implement low income rate programs in GRC proceedings, instead of punting on this important issue.

Water is becoming costly to treat and costly to deliver. We need to put in place policies that will address this challenge, instead of looking for excuses to deny the obvious and maintain the status quo. In the electric, gas and communications industries, we spread fixed costs over vast geographic areas to make these essential utilities affordable and available. The time has come to do the same for the water industry.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
President

San Francisco, California

A.04-04-040 et al. ALJ/CMW/eap

September 8, 2005

A.04-04-040 et al.
D.05-09-020

Commissioner Susan P. Kennedy, Concurring:

In general, I believe that all-party settlements merit great deference from the Commission. Since this decision adopts a settlement reached by all the active parties in this proceeding, I have voted to support it.

Despite my vote with the majority, I find that I fully share the policy concerns that have led Commissioner Peevey to dissent from the opinion of the majority.

First, the application filed by Cal-Am to consolidate the Larkfield and the Sacramento districts into a single ratemaking district makes good policy sense. It lowers water rates of Larkfield residents and—more importantly—expands the customer base to spread the inevitable rising costs of water treatment and delivery. Moreover, as California continues to grow, only regional approaches to water supply will make any policy sense. Thus, today's decision continues our backwards-looking approach to regulating water at the most local level. Although this approach is acceptable, it is far from optimal and is not forward looking.

Second, the opinion of the majority continues to deny the implementation of low-income ratepayer assistance program. I support low-income ratepayer assistance programs. Moreover, I also find that, as is the case here, our failure to implement a ratepayer assistance program is often a further consequence of our backward-looking policies that prevent the consolidation of rate districts. Without consolidation, we generally find that although the rates in small districts are so high that the need for an assistance program is great, we also find that the customer base is both too small and too economically homogeneous to permit the design of a practical low-income ratepayer assistance program.

In conclusion, although I vote to support today's decision adopting a settlement, I believe that the policies of rate consolidation and assistance programs for low-income water ratepayers make good sense, and I look forward to voting in support of these policies as other rate cases of water companies come before this Commission.

Dated September 8, 2005, at San Francisco, California.

/s/ SUSAN P. KENNEDY
SUSAN P. KENNEDY
Commissioner

**APPENDIX B
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(END OF APPENDIX B)